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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,676

07/08/2005

Dirk Reissenweber

2923-717

4121

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7590

10/29/2008

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

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SUITE 800

WASHINGTON, DC 20005

EXAMINER

ROLLAND, ALEX A

ART UNIT

PAPER NUMBER

1792

NOTIFICATION DATE

DELIVERY MODE

10/29/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

Office Action Summary	Application No. 10/541,676	Applicant(s) REISSENWEBER, DIRK	
	Examiner ALEX ROLLAND	Art Unit 1792	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-34 is/are pending in the application.
- 4a) Of the above claim(s) 19-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 29-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____ |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :1/25/07, 2/20/08, 1/25/07, 8/24/05, 7/8/05.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of group II, claims 29-34, in the reply filed on 9/22/08 is acknowledged. The traversal is on the ground(s) that the cited art fails to break the unity of invention because the cited art teaches a two-dimensional structure which differs from the three-dimensional structure presently claimed. This is not found persuasive because the relief taught by Jackson is three-dimensional. An object is not required to vary in a particular direction in order to have that particular dimension.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 19-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 30 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 30 recites the "reinforcement layer is attached directly after embossing of the structure" then further recites "passing though at least one buffer arrangement after the embossing and prior to attaching the reinforcement layer". These are contradictory statements. For purposes of examination, the order of forming the

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laminated strip shall be embossing the metal strip, passing the embossed strip through a buffer, and then coating the embossed strip with plastic.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 29-30, 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Curiel (US 6164548).

Curiel teaches a method for making a metal layer within a resinous plastic layer wherein a coil of aluminum foil is passed through cooperating rolls that emboss the foil (col. 6, lines 16-26) before it enters the extruder and is encapsulated within resinous plastic material (col. 6, lines 30-33). The embossed foil passes through a printing region after embossing and before encapsulation (col.6, lines 25-30). It is the position of the examiner that the printing operation reads on buffer arrangement insofar as the ink deposited by the printing means would buffer the foil from the hot resinous plastic material.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Curiel (US 6164548) in view of Levendusky et al (US 5919517).

Curiel is discussed above but does not teach the upper layer running like a loop in the area of the buffer arrangement. However, Levendusky teaches a method of coating both sides of an aluminum strip with thermoplastic polymers wherein the aluminum strip is curved (claimed "runs like a loop") before the coating step (see Fig. 1, especially the web traveling around elements 14, 16, and 18). The area before the coating step is taken to be a buffer arrangement insofar as tension rollers 14 buffer the web from becoming too slack or too taut. Therefore, it would have been obvious to one of

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ordinary skill in the art at the time of the invention to combine the methods of coating aluminum with polymer of Curiel and Levendusky et al and incorporate a curved web and tension rollers of Levendusky et al between the embossing and extruding operations of Curiel because doing so would incorporate another buffering arrangement after embossing and prior to extruding and predictably allow for more control over the aluminum web.

10. Claims 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curiel (US 6164548) in view of Jackson (US 3745056).

Curiel is discussed above but is silent as to applying either a protective or adhesive varnish to the metal prior to embossing. However, Jackson teaches a method of making a polymer coated metallic strip wherein some form of adhesive material may be coated on both sides of the metal foil (col. 7, lines 38-44). The adhesive material may be a poly-urethane tape (col. 9, lines 38-41), poly-urethane being a known varnish and imparting both adhesive and protective qualities. Additionally, it has been held that disclosure of the steps without indicating specific order is sufficient to make the prima facie case for obviousness, see *In re Burhans*, 154 F.2d 690, 69 USPQ 330 (CCPA 1946) (selection of any order of performing process steps is prima facie obvious in the absence of new or unexpected results). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the methods of making a polymer coated metallic strip of Curiel and Jackson and apply a poly-urethane tape

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prior to embossing because doing so imparts both adhesive and protective qualities to the metal strip.

Conclusion

11. No Claims are allowed. All pending claims are rejected for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX ROLLAND whose telephone number is (571)270-5355. The examiner can normally be reached on Monday through Friday, 9:00 a.m. to 5:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Cleveland can be reached on (571)272-1418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALEX ROLLAND/
Examiner, Art Unit 1792

/Michael Cleveland/
Supervisory Patent Examiner, Art Unit 1792